IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.30087 of 2019
and
W.M.P.Nos.30031 & 30035 of 2019

Tvl.Patel Trading Company
Represented by Proprietor R.Shamanaram
915, K.K.Block,
Coimbatore - 641001. ...Petitioner

Vs.

The State Tax Officer
(The Assistant Commissioner)
R.G.Street, Assessment Circle, (Zone - 1)
Coimbatore - 641018. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33321763036/2015-16 dated 02.08.2019 and quash the same and direct the respondent to redo the assessment after giving opportunity to the petitioner.

For Petitioner :Mr.P.Muthukrishnan
for Mr.K.R.Krishnan

For Respondent :Mr.M.Hariharan
Additional Government Pleader (Taxes)

O R D E R

This writ petition is filed challenging the revised Order of Assessment dated 02.08.2019 relevant to the Assessment Year 2015-16.

2. Heard both sides.

3. The grievance of the petitioner before this Court is that the Assessing Officer has erroneously confirmed the proposal by finding that the petitioner has not filed any objection to the notice of proposal, while in fact, the petitioner filed their objection on 24.06.2019 duly acknowledged at the office of the respondent.

4. The learned Additional Government Pleader submitted that the initial found in the letter delivery book relied on by the petitioner, is not that of any of the officials at the office of the respondent and therefore, the petitioner has to prove that such reply dated 24.06.2019 was filed before the respondent.

5. On the other hand, the learned counsel appearing for the petitioner produced the original letter book and submitted that the entry is made therein dated 24.06.2019 would show that the petitioner made objection to the notice of reply and the same was received at the office of the respondent.

6. In this case, the Assessing Officer sought to revise the assessment orede relevant to the Assessment Year 2015-16. A pre-revision notice dated 13.06.2019 was issued to the petitioner. The dispute is with regard to the filing of the reply to the said notice, while the petitioner claims that they have filed a reply on 24.06.2019, the respondent disputed such filing. However, the petitioner seeks to rely upon the letter delivery book in support of their contention. Thus, it is seen that there is a dispute between the parties regarding the reply said to have been filed by the petitioner. This Court, is not inclined to probe into the matter further and find out whether the said reply was filed petitioner or received by the respondent or not, since this Court is of the view that the interest of justice would be met if one more opportunity is given to the petitioner to file one more reply and thereafter, the Assessing Officer to pass fresh assessment order in accordance with law, more particularly, when the Assessing Officer has also chosen to impose penalty on the petitioner. Admittedly, the petitioner was not heard in person before passing the impugned order.

7. Considering all these facts and circumstances and without expressing any view on the merits of the assessment order, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment after getting reply from the petitioner as per the schedule of the proceedings stated herein under :-

(a) The petitioner shall give one more reply along with a necessary documents to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such reply with supportive documents, the Assessing Officer will hold the personal hearing.

(c) After completion of the personal hearing, the Assessing Officer shall pass fresh orders on merits and in accordance with law within a period of six weeks thereafter.

No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

sni
To
The Assistant Commissioner,
The State Tax Officer
(The Assistant Commissioner)
R.G.Street, Assessment Circle, (Zone - 1)
Coimbatore - 641018.

+1cc to Mr.K.R.Krishnan, Advocae SR.94894
+1cc to the Spl Government Pleader(Taxes) SR.95796,95777

W.P.No.30087 of 2019

BR(CO)
CB(12/12/2019)